

Applicants: Kolton, et al.  
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## **REMARKS**

In the Office Action dated April 24, 2006, the Examiner rejected Claims 1-4 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,969,613 (Yeager). The Examiner also rejected Claim 1 under 35 U.S.C. §103(a) as being unpatentable over Yeager.

Applicants acknowledge the Examiner's indication that Claims 9-16 are allowable, and that Claims 5-8 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 1 has been amended. Claims 1-16 remain in the application for purposes of continued prosecution.

### **§102 Rejection**

The Examiner rejected Claims 1-4 under 36 U.S.C. §102(b) as being anticipated by Yeager. In this regard, the Examiner states that:

Regarding claim 1, Yeager et al. disclose an electronic article surveillance (EAS) assembly (10) comprising a housing (11) containing an EAS marker (37), the housing defining a viewability channel (50, 51) extending between opposed first and second exterior surfaces (figure 1) of the housing, the EAS marker being disposed aside the viewability channel (figure 1, col. 5, lines 9-16, 45-52 and col. 6, lines 3-11).

As set forth hereinabove, Claim 1 has been amended to more particularly define that the viewing channel is "for viewing of said information located on said article when said assembly is

secured to said article” and that the surveillance marker is disposed aside the viewability channel “when said assembly is secured to said article.” The Yeager reference cited by the Examiner, which is similar to the prior art discussed in the background of the present application, is directed to a fundamentally distinct device, i.e., a device having an elongated strap which is looped around an article of manufacture and then passed through a housing containing an EAS marker. The interior of this prior art housing typically contains structure for lockingly engaging the strap, thereby preventing withdrawal of the strap from the housing. In addition, the housing is permanently closed, thereby preventing access to the EAS marker contained in the housing, or to the structure which engages the elongated strap.

Thus, slot 50 and channel 51 of Yeager do not form a viewability channel as suggested by the Examiner, but rather define a channel into which strap 12 is inserted once it has been looped around an article of manufacture. As a result, once the device is secured to an article of manufacture, there is no such viewability channel, nor could any information be viewed from one side of the housing to the other side through slot 50 and channel 51.

In an effort to more particularly define the present invention, Applicants have amended Claim 1 to recite that the claimed viewability channel provides “viewing of said information located on said article when said assembly is secured to said article.” As mentioned, there is no viewability channel in the Yeager device which allows viewing of information located on the article when the device is secured to the article. Moreover, Applicant has amended Claim 1 to recite that the surveillance marker is disposed aside the viewability channel “when said assembly

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is secured to said article.” The Yeager device does not have its EAS marker positioned aside the alleged channel when secured to an article. Rather, the EAS marker in the Yeager device is positioned directly across or in line with the alleged channel when the device is secured to an article of manufacture.

In view of the amendments to Claim 1, it is respectfully submitted that the §102(b) rejection of such claim should be withdrawn. Inasmuch as Claim 1 is not anticipated by the cited Yeager reference, Claims 2-4 are also not anticipated by Yeager. Accordingly, the §102(b) rejection of Claims 2-4 should also be withdrawn.

#### §103(a) Rejection

The Examiner rejected Claim 1 under 35 U.S.C. §103(a) as being unpatentable over Yeager. The Examiner, however, did not provide any analysis or basis for this rejection.

As discussed hereinabove, the cited Yeager reference is similar in design to the prior art discussed in the background of the present application. More particularly, these “seal” type devices are distinct in design and operation from the device claimed in the present application. These prior art devices include an elongated strap which is designed to encircle an article of manufacture and then be passed through a housing, the housing both locking the strap at a predetermined position and containing an EAS marker. Although the Examiner’s rejection suggests that Yeager discloses the elements recited in the claimed invention, such rejection is apparently based upon the configuration of the Yeager device when it is open and uninstalled.

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Amended Claim 1 clearly defines over such structure. More particularly, the cited Yeager reference simply fails to disclose, suggest or teach the claimed viewability channel or the positioning of the claimed EAS marker. Accordingly, the §103(a) rejection of Claim 1 is improper, and should be withdrawn.

In view of the amendments to the claims, together with the remarks set forth above, it is respectfully submitted that the present application is, in all conditions, complete and in condition for allowance. Accordingly, reconsideration and allowance of the pending claims is respectfully solicited.

In the event that the Examiner has any questions concerning this Amendment, he is invited to contact the undersigned attorney.

Respectfully submitted,



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